

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

ROBERT DEMISON, III	§	
VS.	§	CIVIL ACTION NO. 9:21cv47
JUSTIN D. TRIMBEL	§	

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Robert Demison, III, an inmate at the Polunsky Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brought the above-styled lawsuit.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends the action be dismissed for want of prosecution.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record and pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

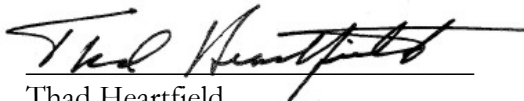
After careful consideration, the court concludes plaintiff's objections are without merit. There is a clear record of delay by the plaintiff in this case. Plaintiff was originally ordered to submit an initial partial filing fee on March 16, 2021, more than four months ago. The court has provided plaintiff several extensions of time to comply with the order of the court, and plaintiff has been warned of the potential dismissal of his lawsuit for failing to comply. Such warnings, however, have

proven futile in prompting the diligent prosecution of this case. The court has considered lesser sanctions but finds no lesser sanction appropriate because plaintiff has failed to comply with the initial requirement for all litigants, to pay the required filing fee or, as required under the PLRA, pay an initial partial filing fee. The dismissal of this action will be without prejudice to plaintiff's ability to refile his claims, and plaintiff is not barred by the applicable two-year statute of limitations. Accordingly, the action should be dismissed for want of prosecution.

O R D E R

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations. Plaintiff may reinstate his claims within thirty (30) days from the date of this order by submitting the initial partial filing fee as ordered.

SIGNED this the **23** day of **July, 2021**.


Thad Heartfield
United States District Judge